

# Under mounting pressure, Australian government modifies refugee detention

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Facing more damning revelations about the treatment of detainees, and anxious to head off any rift in his government, Prime Minister John Howard last week modified one of his government's key policies—the mandatory detention of asylum seekers.

Under a compromise package negotiated with several of his own backbench members of parliament, refugee families with children can now be transferred from detention centres into “community detention” following four to six weeks of imprisonment. After years of keeping traumatised children behind razor wire, the government has inserted in the Migration Act “a principle that a minor shall only be detained as a matter of last resort”.

In addition, around 50 rejected asylum seekers—mostly Iranians and Sri Lankans—who have been incarcerated for more than three years have been offered “removal pending” visas, allowing them to live in the community until they are deported. Among them is the longest-serving detainee, Peter Qasim, a Kashmiri locked up for almost seven years, who was recently admitted to Adelaide's Glenside psychiatric hospital for treatment for depression. Only a month ago, Immigration Minister Amanda Vanstone insisted that Qasim would not qualify for a visa because he had been “uncooperative”.

Several thousand accepted refugees who have been living on insecure Temporary Protection Visas, some for six years, will have their applications for permanent visas accelerated, with an undertaking that the immigration authorities will complete their primary assessments by October 31.

The most striking feature about Howard's modifications is that the pressure for them did not come from the Labor Party opposition, which remains totally committed to the mandatory detention regime that the last Labor government initiated in 1992. Instead, the demand for concessions came from within Howard's Liberal-National Party coalition.

Over three weeks, Howard conducted some eight hours of personal negotiations, trying to strike a deal with six Liberal Party “rebels” led by Petro Georgiou and Judi Moylan, who last month proposed slightly wider changes to the detention system. In the end, they accepted Howard's package and dropped their plans to introduce two private members' bills containing their proposals.

The three-week saga underscored the underlying tensions wracking the government in the lead-up to July 1, when Howard will hold a majority in the Senate, and hence both houses of parliament, for the first time. Howard was visibly shaken by the prospect of Coalition MPs crossing the floor of parliament to vote against the government, something that has not happened since it took office in 1996.

On the surface, Howard appears to be in the strongest possible parliamentary situation. No government has controlled both houses

since the early 1980s. But differences have already begun to surface within the Coalition over the agenda that corporate leaders want pushed through the Senate after July 1. These include the outlawing of student union fees, media ownership deregulation, industrial relations changes, various “free market” competition policies and the full privatisation of Telstra, the telecommunications carrier.

Georgiou's Liberal dissidents had the backing of important business and media interests, which have for some time urged Howard to moderate his anti-refugee stance. Their concerns have included the damage done to Australia's image in major Asian markets, the undermining of Canberra's ability to intervene overseas in the name of human rights, and gaining expanded access to supplies of cheap immigrant labour. Among those voicing such concerns have been businessman Dick Smith and Rupert Murdoch's media outlets.

Moreover, supporters of Howard's leadership rival, Treasurer Peter Costello, could take advantage of any fissures to press for Howard's early retirement. This week's resignation of National Party leader and Deputy Prime Minister John Anderson is another indication of looming conflicts within the Coalition.

The events of the past few weeks have underlined the political bankruptcy of the Labor Party. Labor leader Kim Beazley initially opposed the private members' bills proposed by the backbench Liberals. Then, sniffing the media wind, he postured in support. When Howard unveiled his deal with the “rebels,” Beazley quickly announced that Labor would vote for it.

Labor's immigration spokesman Laurie Ferguson opposed aspects of the deal from the right. He condemned the decision to offer Qasim a deportation visa, declaring it would set a “worrying precedent” by granting a visa to someone who had not cooperated with the authorities. Beazley later claimed that Ferguson had “revised” his position to support Qasim's release, but Ferguson defied Beazley, reiterating his earlier statement.

Ferguson was subsequently dropped as immigration spokesman, but his stance was not simply an individual one. He is a leading figure in Labor's “Left” faction, with close ties to the trade union leadership, which has a long track record of vilifying asylum seekers and scapegoating them for declining working and living conditions.

Howard initially reacted angrily against the “rebel” MPs, insisting that Vanstone and her department were showing “compassion” in administering the government's detention policy in a “sensible and flexible fashion”. This followed Vanstone's admission that 201 people had been wrongly detained in the past few years alone, including Cornelia Rau, an Australian resident, who was detained and denied psychiatric treatment for 10 months, and Vivian Alvarez, a physically injured and mentally unwell Australian citizen, who was

deported to the Philippines.

At a May 26 press conference, Howard made a ham-fisted attempt to dismiss the significance of these cases. He said they represented just 0.2 percent of the 88,000 people detained between July 2000 and April 2005. Even if the figure of 201 is accurate—it covers only those whom the immigration authorities have so far admitted to having wrongly detained—the lives of hundreds of people have been affected.

Howard's argument merely served to highlight how many people have been detained without trial, by executive fiat, over the past five years. Their only "offence" has been to seek to exercise their democratic right, recognised by international law, to flee their home countries and seek safety and security. For that, like Rau and Alvarez, they have faced indefinite confinement, degrading treatment, denial of medical and psychiatric care and infringement of basic legal rights.

Adding to Howard's difficulties was the impending release of the Palmer report into Rau's maltreatment. When the government, appointed former Australian Federal Police chief Mick Palmer in February to conduct a closed-door inquiry into Rau's case, it was intended to be a whitewash. Palmer's terms of reference excluded any examination of the mandatory detention regime itself.

Before long, however, the government was forced to ask Palmer to investigate the treatment of Alvarez and the 201 other victims of wrongful detention. With these cases fuelling popular opposition to the detention regime, Palmer's inquiry became increasingly problematic.

Leaked reports surfaced that Palmer would decline to probe the extra cases—a task that could take years—and recommend instead some form of external scrutiny over detention decisions. Over the past week, Howard and Vanstone have been trying to keep the lid on draft copies of Palmer's report, which he has circulated for official comment.

Late last week, after a final three-hour session with Howard, Moylan described the package agreed with Howard as a "terrific outcome for the nation and the government".

Howard displayed his customary duplicity. While he spoke of "long overdue" and "significant" changes, he declared that the "framework" of his government's policy was "unaltered". Interviewed on television, he emphasised that compulsory detention, the excision of offshore territories from the migration zone and the military repulsion of refugee boats would continue. And nothing would change for the asylum seekers incarcerated on the remote Pacific island of Nauru.

Despite the obvious abuses committed by Vanstone and her department, they will retain their arbitrary powers. Howard's announcement specified that the modifications would "not give rise to any additional legal rights [for detainees] including rights of appeal".

The minister has been given a new series of unreviewable powers (legally termed "non-compellable" discretions), including to transfer refugee families with children from detention centres. They will still be detained however—either in adjacent compounds, euphemistically labelled Residential Housing Projects, or in "community detention".

Those living in the community will be under close monitoring and subject to restrictive, as yet unspecified, conditions. According to Howard's statement: "The Migration Act will be amended to provide an additional non-compellable power for the Minister to specify alternative arrangements for a person's detention and conditions to apply to that person."

Most detainees, who are single people, will remain behind razor wire. Their plight was immediately highlighted when, a day after Howard's announcement, a Chinese detainee attempted suicide and

12 others slashed their wrists at Sydney's Villawood detention centre. All were protesting against their imminent deportation back to China following their interrogation by Chinese officials.

The immigration department has been given a three-month deadline to decide on protection visa applications, followed by a three-month limit on reviews by the Refugee Review Tribunal (RRT). Yet, if these deadlines are breached, applicants have no redress. The department simply has to report failures to meet the time limits to Vanstone, who will periodically table such reports in parliament.

Equally toothless is the proposal that the federal Ombudsman review detentions once they exceed two years. The Ombudsman may recommend the release of a detainee or the granting of a visa, but no recommendation will "in any way" bind the minister.

New regulations governing the recently-created Removal Pending Bridging Visas will drop a previous requirement that applicants abandon any legal challenge to the denial of their refugee status. Yet, access to the visa will still depend on a personal invitation from Vanstone and recipients must sign undertakings to cooperate with deportation at any time the minister decides.

Supervising the changes will be a high-level Inter-Departmental Committee (IDC) chaired by Howard's own secretary of the Department of Prime Minister and Cabinet. The domestic spy agency ASIO (Australian Security Intelligence Organisation) will be represented on the IDC, together with the immigration, attorney-general's, foreign affairs and family services departments.

The last such committee was the notorious "People Smuggling Taskforce" that orchestrated the "children overboard" lies, the cover-up of the sinking of a refugee boat codenamed the SIEV X, and Operation Relex, the military mobilisation against refugee vessels, in the lead-up to the 2001 election.

Part of the official rationale for this new IDC is the need to overcome the "culture" of the immigration department (Palmer's report will apparently refer to "mindless zealotry"). But the department's practices have been entirely directed by government policy, first under former minister Philip Ruddock (since promoted to attorney-general) and then Vanstone.

Over the past nine years, and particularly since 2001, the demonisation and punishment of refugees has been a linchpin of Howard's government. It has relied upon its so-called "border protection policy," together with the "war on terrorism" to whip up fears and insecurities and divert attention away from growing inequality and deteriorating social conditions. Now, at the very point where the government is under pressure from big business to use its Senate majority to accelerate its pro-market agenda, these policies are starting to unravel.



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